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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,161	07/12/2001	John L. Barrett	8X8S.261PA	2760
40581	7590	09/01/2006	EXAMINER	
CRAWFORD MAUNU PLLC 1270 NORTHLAND DRIVE, SUITE 390 ST. PAUL, MN 55120			POWERS, WILLIAM S	
			ART UNIT	PAPER NUMBER
			2134	

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/905,161	BARRETT, JOHN L.	
	Examiner	Art Unit	
	William S. Powers	2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/15/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6/12/2006 have been fully considered but they are not persuasive.

As to Applicant's argument that the Office Action relies "upon a limitation that a person be identified as unauthorized relative to unrelated criteria," the claim states that an unauthorized person is detected by heat, motion or sound sensors. The claim does not state that a person is detected, but a particular person is detected, an unauthorized person is detected. Although identifying is not explicitly mentioned in the claim language, it is implicit in the adjective unauthorized. No reference to an unauthorized person detected through heat, motion or sound sensors can be found in the references to the Specification cited by the Applicant. For example, "sensitive information is ... blocked when a person is detected" (Specification, page 5, lines 14-15). "As the heat sensor detects the person approaching the screen..." (Specification, page 6, lines 7-9). The detected person may or may not be unauthorized, but the claim language specifically states that the person detected by heat, motion or sound sensors is unauthorized.

For at least the above-mentioned reasons, the 35 USC 112, 1st paragraph rejection of claims 1, 13, 18 and 18 is maintained.

As to Applicant's argument that the Atick patent detects "an individual and that the individual may move into the field of view, it does not teach detecting motion of the individual" (Remarks, page 3, lines 5-7), Applicant is directed to column 8, lines 8-22 of the Atick patent. The invention of Atick tracks individuals who have entered the field of view of the camera continuously. It is clear to one of ordinary skill in the art that tracking a subject through a video camera consists of comparing the current frame of the video with the previous frame of video. If the frames are identical, nothing has changed. If, however, the frames are not identical, this indicates that something has moved to create the discrepancy between the two frames. Further, the Applicant admits that the invention of Atick teaches detecting when an individual may **move** into the field of view (emphasis added). The invention of Atick does use motion detection in process of detecting the presence of individuals in the field of view of the computer monitor.

For at least the above-mentioned reasons, the 35 USC 102(e) rejection of claims 1-9 and 18 is maintained.

As to Applicant's argument that the "means for automatically detecting a person" has nothing to do with the Atick patent, Applicant is directed to column 8, lines 8-22 of the Atick patent. The claim is written so broadly that it encompasses all the embodiments outlined on page 9, lines 1-6 of the Specification. The invention of Atick tracks individuals who have entered the field of view of the camera continuously. It is clear to one of ordinary skill in the art that tracking a subject through a video camera

consists of comparing the current frame of the video with the previous frame of video. If the frames are identical, nothing has changed. If, however, the frames are not identical, this indicates that something has moved to create the discrepancy between the two frames. In addition, there is nothing in the cited reference to page 9, lines 4-6 of the Specification that distinguishes a light detector from a video camera. In fact, a video camera, or any camera, is configured to detect variations in light.

For at least the above-mentioned reasons, the 35 USC 102(e) rejection of claims 10-17 is maintained.

As to Applicant's argument that the combined patents of Atick and Yee fail to show enabling a key-stroke tracking application after automatically detecting a person, the key-stroke tracking application of Yee is used to monitor the use of a computer (Yee, column 5, lines 38-50). It is a background process that is running on the computer and is enabled when the keyboard is used. The method of Atick detects people as they enter the field of view of the computer monitor. Therefore, a person who intends to use a computer is detected before he/she uses the keyboard and once he/she uses the keyboard, the keystroke tracking application is enabled and that information is saved to memory.

For at least the above-mentioned reasons, the 35 USC 103(a) rejection of claim 9 is maintained.

As to Applicant's argument that the claimed invention is limited to "means for automatically detecting a person" and that such means has nothing to do with searching for recognizable faces in a video camera, the invention of Atick does not search for recognizable faces in a video camera. The video camera detects motion as discussed above and saves a digital representation of a person's face to memory and compares that digital representation to a data base of stored face templates to determine the authorization level of that individual.

For at least the above-mentioned reasons, the 35 USC 103(a) rejection of claim 17 is maintained.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1 and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no evidence in the specification that shows that a person can be identified as unauthorized through heat, motion or sound sensors. A person's presence is signaled by said sensors, but the determination of a

Art Unit: 2134

person's authorization status through heat, motion or sound detection is not detailed. It appears from the specification that anybody, but the initial computer user is considered unauthorized. In this case, a superior to the authorized user would not be able to view data on the authorized user's computer.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8, 10-16 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,111,517 to Atick et al. (hereto referred to as Atick).

As to claims 1 and 18, Atick teaches:

- a. Automatically detecting at least one unauthorized person within a predetermined range of the electronically displayed information by sensing one of heat, motion and sound, the at least one unauthorized person being in position to

view the electronically displayed information (detecting motion of an unauthorized person within reading distance of the terminal) (column 8, lines 8-22).

b. Communicatively coupling a signal to the display controller in response to the automatic detection (column 8, lines 8-22).

c. In response to the signal and using the display controller, automatically blocking the electronically displayed information (column 8, lines 8-22).

As to claim 2, Atick teaches automatically blocking the electronically displayed information includes removing the electronically displayed information from the display (column 8, lines 20-22).

As to claim 3, Atick teaches automatically blocking the electronically displayed information includes replacing the electronically displayed information from the display with other data (column 8, lines 20-22).

As to claim 4, Atick teaches that the other data is a background screen (column 8, lines 20-22).

As to claim 5, Atick teaches that the other data includes an audio file (the use of a "prerecorded multimedia greeting message" when an unauthorized individual enters the view field of the monitoring system) (column 10, lines 36-42).

As to claim 6, Atick teaches the other data includes a pre-selected software application (column 8, lines 47-48).

As to claim 7, Atick teaches the step of automatically detecting a person includes using a detection-module (video camera) adapted to detect the person within the predetermined range, wherein the detection module includes a detection software application that configures the display controller to respond to the detection module (column 8, lines 8-22).

As to claim 8, Atick teaches the step of automatically detecting a person, enabling an imaging device for capturing an image of the person detected (column 10 lines 19-22).

As to claim 10, Atick teaches:

- a. Automatically detecting at least one person within a predetermined range of the electronically displayed information, the at least one unauthorized person in position to view the electronically displayed information (detecting motion of an unauthorized person within reading distance of the terminal) (column 8, lines 8-22).
- b. Communicatively coupling a signal to the display controller in response to the automatic detection (column 8, lines 8-22).
- c. In response to the signal and using the display controller, automatically blocking the electronically displayed information (column 8, lines 8-22).

As to claim 11, Atick teaches automatically detecting means includes a detection module configured and arranged to detect a set of input data, wherein the input data is selected from the group consisting of: heat, motion, light variations and sound (the use of “discontinuities in the spatial, temporal, and color domains of the video image” to detect the presence of an individual) (column 4, lines 20-27).

As to claim 12, Atick teaches that communicatively coupling means includes a display processor responsive to the detection module configured and arranged to control the display controller (when an unauthorized person is detected the display is disabled or the information is replaced with other information) (column 8, 8-22).

As to claim 13, Atick teaches a detector adapter configured and arranged to convert the set of input data from the detection module to a detection signal, wherein the detection signal is configured to drive the display processor (when an unauthorized person is detected the display is disabled or the information is replaced with other information) (column 8, 8-22).

As to claim 14, Atick teaches an alternate media input module (video camera) configured and arranged to communicate with the display processor (column 3, lines 49-51).

Art Unit: 2134

As to claim 15, Atick teaches an imaging device adapted to capture and encode an image of the person detected and transmit the encoded image to the alternate media input module for processing (column 10, lines 19-35).

As to claim 16, Atick teaches a microphone adapted to decode a sound signal of the person detected and transmit the decoded-signal to the alternate media input module for processing (column 9, line 53-column 10, line 18).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,111,517 to Atick et al. (hereto referred to as Atick), as applied to claim

1 and claims 10, 11 and 12 above, respectively, in view of US Patent No. 6,380,924 to Yee et al. (hereinafter Yee).

As to claims 9 and 17, Atick does not expressly mention recording the keystrokes executed on a computer. However, in an analogous art, Yee teaches enabling a key-stroke tracking application for tracking keystrokes or system commands entered on a keyboard wherein the keyboard is communicatively coupled to a display processor (column 7, lines 27-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the computer access control apparatus of Atick with the key stroke recording of Yee in order to monitor the user's work actions for security purposes as suggested by Yee (column 5, lines 15-20).

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-18 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of copending Application No. 10/041,756. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

10. Claim 1 of the instant application corresponds to claim 1 of co-pending application (10/041,756) and is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/041,756. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are directed to substantially the same invention and recites only obvious differences that would have been obvious to one of ordinary skill in the art of data security such as using the word "modifying" in the instant application instead of "blocking" used in the co-pending application (10/041,756). In the instant application (09/905,161) the specification states that blocking the electronic information "occurs upon reconfiguring the display to replace the sensitive information with either a screen saver application or with a blank screen" (page 5, lines 19-20). In the pending application (10/041,756) the specification states that modifying

Art Unit: 2134

the electronic information "is blocked by reconfiguring the display to replace the sensitive information with either a screen saver application or with a blank screen" (page 7, lines 12-14). Clearly, in context of the respective specifications, the applicants use the words modifying and blocking interchangeably. In the broader sense of each application, the words are also interchangeable. Both applications want to protect sensitive data from dissemination to unauthorized individuals. This is accomplished by altering the image of the data on the display device, not the data itself. The altering or modifying of the image of data on the display blocks access to that data. Blocking the image of data on the display modifies the image by replacing it with a blank screen or screen saver.

Claim 2 corresponds to claim 8 of 10/041,756.

Claim 3 corresponds to claim 2 of 10/041,756.

Claim 4 corresponds to claim 6 of 10/041,756.

Claim 5 corresponds to claim 9 of 10/041,756.

Claim 6 corresponds to claim 7 of 10/041,756.

Claim 7 corresponds to claim 10 of 10/041,756.

Claim 8 corresponds to claim 11 of 10/041,756.

Claim 9 corresponds to claim 12 of 10/041,756.

Claim 10-14 correspond to claim 13 of 10/041,756.

Claim 15 corresponds to claim 15 of 10/041,756.

Claim 16 corresponds to claim 16 of 10/041,756.

Claim 17 corresponds to claim 17 of 10/041,756.

Claim 18 corresponds to claims 18 and 19 of 10/041,756.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William S. Powers whose telephone number is 751 272 8573. The examiner can normally be reached on m-f 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on 571 272 6962. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

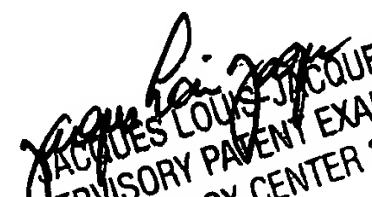
Art Unit: 2134

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



8/21/2006

William S. Powers
Examiner
Art Unit 2134



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